

OLC 78-1736/4

25 August 1978

MR

MEMORANDUM FOR THE RECORD

SUBJECT: Draft Amendments to H.R. 12171, the "Federal Auditing and Accounting Act of 1978"

1. During the course of several phone conversations between the undersigned and Michael J. O'Neil, Chief Counsel, House Permanent Select Committee on Intelligence (HPSCI), on 24 and 25 August 1978, it was agreed that we would provide to Mr. O'Neil a draft proposed amendment to H.R. 12171 and would not, at least for the time being, provide a formal written response reflecting the Director's official views. Mr. O'Neil said he had raised the matter of our draft amendment with other staffers representing Chairman Jack Brooks, the bill's sponsor, but had reached no clear indication as to where the Congressman stood on the matter of an amendment along the lines about which we were talking. Mr. O'Neil said further that he had not yet discussed with Chairman Boland the terms of our draft amendment, but would do so on his [Mr. O'Neil's] return from leave after Labor Day.

2. We agreed that, insofar as it was our strong preference that an amendment to H.R. 12171 have the effect of maintaining the status quo concerning the authorities of the Comptroller General to audit financial transactions relating to intelligence and counterintelligence activities, an amendment would include two points: (1) nothing in the operative provisions of the bill would impair the authorities under subsection 8(b) of the CIA Act and (2) the President could exempt from the operative provisions of the bill financial transactions relating to sensitive foreign intelligence or foreign counterintelligence activities. The sticking point arose when Mr. O'Neil suggested that we include further in the amendment reference to the fact that the two intelligence oversight committees shall have authority to review all "financial transactions"\* under the Director's "(8)(b) Authority" and which are exempt from the bill pursuant to Presidential exemption. Mr. O'Neil said it was his position the committees presently possessed this authority and that such a reference in the amendment to H.R. 12171 in effect maintained the status quo. In opposition, the undersigned argued that such a provision


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\*The term "financial transaction" is a term of art used in section 117 of the Auditing and Accounting Act of 1950, which would be amended by section 2 of H.R. 12171. This term is preferable also in that it is broader than the terms such as "expenditure" or "obligation."

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went beyond the status quo and would have the operative effect of lending "statutory credence" to whatever authorities the oversight committees possessed under their enabling resolution to require access to intelligence information. Moreover, the undersigned argued inclusion in an amendment to H.R. 12171 along these lines would get us out in front of the charter legislation process, which we maintain is the appropriate context in which the matters raised by H.R. 12171 should be addressed.

3. Although we reached no agreement as to the manner in which the question of intelligence oversight committee access to information relating to financial transactions would or should be dealt with in an amendment to H.R. 12171, the draft proposal sent to Mr. O'Neil on 25 August contained a provision stating, in effect, that nothing in the legislation would impair [whatever] authorities [were now enjoyed by] of the HPSCI and the SSCI.

  
Chief, Legislation Staff  
Office of Legislative Counsel

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